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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,712	04/02/2004	Dennis Piper	AFF014USPT02	1186

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EXAMINER

LINDSEY, RODNEY M

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/816,712

Applicant(s)

PIPER ET AL.

Examiner

Rodney M. Lindsey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 and 20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 and 20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4 and 6-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Gwon.

With respect to claim 1 note Figure 3 and the headguard 1 with the pad at 20a, the retention element “strap 16” and the circumferential lines of retention defined by straps 16, 19 that lie in diametrically intersecting planes. With respect to claim 2 note column 3, line 21 and the elastic strap 16. With respect to claim 3 note the strap 16. With respect to claim 4 note the straps 16, 19. With respect to claim 6 note that the line of retention defined by strap 16 would be above the occipital bone while that defined by strap 19 would be below the occipital bone as shown in Figure 3. With respect to claim 7 note the adjustability of the connects as at 40, 41 of the straps 16, 19 permitting angular adjustment as claimed. With respect to claim 8 the capacity for angular adjustment noted with respect to claim 7 also allows for circumferential shifting of the diametric points of intersection as claimed. With respect to claim 9 note Figure 3 and the headguard 1 with the pad at 20a and retention elements “straps 16, 19”. With respect to claims 10 and 11 note the use of elastic material in forming the straps 16, 19 (see column 3, line 21). With respect to claim 12 note the length adjustment means as at 40, 41.

3. Claims 1, 5-9, 12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Morgan. With respect to claim 1 note the headguard of Figure 1 with the pad “protector 29”,

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retention element “headstrap 15” and the diametrically intersecting circumferential lines of retention defined by headstraps 15, 16. With respect to claim 5 note Figure 1 and the proximate temple location of the diametric points of intersection of the lines of retention defined by the headstraps 15, 16. With respect to claim 6 note that the line of retention defined by strap 15 would be above the occipital bone while that defined by strap 16 would be below the occipital bone as shown in Figure 1. With respect to claim 7 note the angular adjustment afforded the straps 15, 16 by the connection at slots 23 and therefore the angular adjustment of the circumferential lines of retention. With respect to claim 8 the capacity for angular adjustment noted with respect to claim 7 also allows for circumferential shifting of the diametric points of intersection as claimed. With respect to claim 9 note the headguard of Figure 1 with the pad “protector 29” and retention elements “headstraps 15, 16”. With respect to claim 12 note the length adjustment means “cable 25”. With respect to claim 13 note Figure 1 and the proximate temple location of the diametric points of intersection of the lines of retention defined by the headstraps 15, 16.

4. Claims 1, 6, 9 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Mattes ‘054. With respect to claim 1 note the headguard shown in Figure 1 with the pad “headgear 12”, retention element “strap 20” and the diametrically intersecting circumferential lines of retention defined by straps 20, 26. With respect to claim 6 note that the line of retention defined by strap 20 would be above the occipital bone while that defined by strap 26 would be below the occipital bone as shown in Figure 1. With respect to claim 9 note the headguard shown in Figure 1 with the pad “headgear 12” and retention elements “straps 20, 26”. With respect to claim 12 note length adjustment means 24, 28.

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5. Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated by Wallman.

Note the headguard or "head dress" at 10, 11 protective of a wearer's hairstyle and comprising front protective piece 10, rear protective piece 11 and pivot points as at 21. the head dress as much functions to protect the wearer from a blow to the head as does the instant headguard as claimed.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 14-16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Steffen in view of Lampe et al. '399. With respect to claims 14 and 18 Steffen shows a headguard "helmet 10" with a front protective piece 12, a rear protective piece 18, a retention element "elastic strap 22" and the front and rear protective pieces comprising a pad 50 in a pocket defined by covering 52. Steffen does not teach the use of a plurality of separate pads or specifically three separate pads in the pocket of the front protective piece. Lampe et al. teach that the use of three separate pads 6 in the front pocket of a headguard. It would have been obvious to substitute the plurality of pads 6 of Lampe et al. for the single pad 50 of Steffen to achieve the advantage enhancing the ability of the front protective piece to conform by "relative shifting" to the contour of the head. With respect to claim 15 note the use of an elastic strap 22 (see column 3, line 2 of Steffen). With respect to claim 16 note the strap 22 of Steffen. With respect to claim 19 Lampe et al. additionally teach individual pockets 8 for each pad (see Figure

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4). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the cover of Steffen with individual pockets for the pads to achieve the advantage of enhancing the retention of an individual pad in a position relative to the head to improve the fit of the headguard.

8. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Steffen in view of Lampe et al. '399 as applied to claim 14 above, and further in view of Mattes '054. Steffen does not teach the use of adjustment means on the straps. Mattes '054 teach the use of adjustment means 24, 28 on straps 20, 26. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the straps 22, 24, 26, 28 of Steffen with the adjustment means 24, 28 of Mattes '054 to achieve the advantage of enabling length adjustment of the straps.

Information Disclosure Statement

9. The information disclosure statement filed February 7, 2006 fails to comply with 37 CFR 1.98(a)(1), which requires the following: (1) a list of all patents, publications, applications, or other information submitted for consideration by the Office; (2) U.S. patents and U.S. patent application publications listed in a section separately from citations of other documents; (3) the application number of the application in which the information disclosure statement is being submitted on each page of the list; (4) a column that provides a blank space next to each document to be considered, for the examiner's initials; and (5) a heading that clearly indicates that the list is an information disclosure statement. The information disclosure statement has been placed in the application file, but the information referred to therein has not been considered. The received World patent to Phillips has been cited on Form 892 attached hereto.

Response to Arguments

10. Applicant's arguments filed January 30, 2006 and February 6, 2006 have been fully considered but they are not persuasive. Contrary to applicant's remarks the claims clearly make no distinction between projected or imaginary lines and other lines. Further the circumferentially lines defined by Morgan and Mattes are maintained to be separate and distinct. In response to applicant's remarks drawn to Wallman note the expanded reasons for rejection of claim 20 as set forth above. In response to applicant's remarks drawn to the combination of Steffen and Lampe et al. the propriety of such rejection is hereby maintained the motivation for combining being clearly set forth in the rejection. The rejection of claims 1-18 and 20 ably set forth above is deemed proper in all respects.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

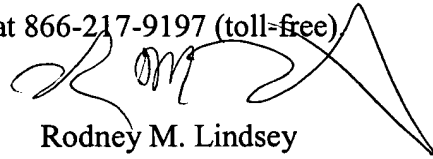
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney M. Lindsey whose telephone number is (571) 272-4989. The examiner can normally be reached on M-F (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Rodney M. Lindsey
Primary Examiner
Art Unit 3765

rml